WILLIAM A. MUNDELL
CHAIRMAN

JIM IRVIN
COMMISSIONER

MARC SPITZER
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Arizona Corporation Commission
DOCKETED

APR 19 2002

DOCKETED BY

ARIZONA CORPORATION COMMISSION

MEMORANDUM

This is a revised version of the Order previously filed on: 4/11/02

AZ CORP COMMISSION DOCUMENT CONTROL

2002 APR 19 P 4: 48

RECEIVED

OPEN MEETING ITEM
4/25/02

TO: Chairman William A. Mundell
Commissioner Jim Irvin
Commissioner Marc Spitzer

FROM: Mark Sendrow
Director of Securities

DATE: April 15, 2002

RE: Docket No. S-03309A-02-0000, Michael David Fromkin

CC: Brian C. McNeil, Executive Secretary

A proposed default Order against Michael David Fromkin ("Fromkin") is attached. The initial action, a Notice of Opportunity for Hearing ("Notice") was filed on February 21, 2002. Mr. Fromkin was served a copy of the Notice on March 6, 2002, by certified mail at his home address in California. Additionally, a copy of the Notice was served by certified mail at a Scottsdale, Arizona address on February 25, 2002, where the return receipt indicates the Notice was signed for by Sue Fromkin, Fromkin's wife. Fromkin failed to request an administrative hearing.

In September 1998, an investigation into Fromkin's business practices began after the Division received a complaint from an Arizona resident alleging fraud by Fromkin in connection with the sale of stock. The complainant, having successfully sued in arbitration, was engaged in a protracted legal battle with Fromkin, Fromkin having appealed the arbitration.

The Division's investigation revealed that Fromkin approaches small businesses in financial distress and offers his assistance by promising to restructure the business to eliminate its financial problems. He promises to deal with creditor issues, raise capital and generally provide sound business guidance. Generally, his first recommendation is that the distressed business folds and restart as a new company. For this advice, he takes a 50% ownership in the new company which costs him nothing. Between 1994 and 1999, Fromkin was involved in the incorporation of no less than 31 Arizona corporations and L.L.C.'s.

Fromkin offered for sale and sold stock issued by companies with whom he associated or formed. The investments were offered through general solicitations verbally by Fromkin. Fromkin was not a registered securities salesman or dealer in the state of Arizona. The stock was not registered for sale in the state of Arizona, nor offered in reliance upon an available exemption from registration, nor pursuant to a notice filing. Fromkin failed to advise offerees and shareholders that the stock was not registered for sale and that he was not a registered dealer or salesman. The described offers and sales took place from February 9, 1995, through October 1998.

Fromkin failed to disclose how investors' funds would actually be used, and in fact, gave conflicting uses to various investors. Fromkin failed to tell offerees that some investors had received shares in exchange for stock in another Fromkin company that was defunct, thereby diluting the value of all of the shares.

By continually forming new corporations, and transferring investor shares to the new entity, without providing a prospectus or other material information, Fromkin perpetrated the false image that he was a successful venture capitalist. In fact, Fromkin was engaged in a pattern of deception about his business dealings.

Fromkin engaged in a course of business that operated as a fraud, by offering and selling unregistered stock in a Fromkin controlled company, without providing material disclosure to investors. When that company purportedly failed to produce profits, he offered to exchange the stock for unregistered stock in a new Fromkin controlled company. In offering and selling unregistered stock through his several companies, Fromkin raised at least $225,000 from at least nine (9) investors.

In January 2001, Fromkin launched the Capital Venture Partners website. The site, located at www.capitalventurepartners.com advertises an investment program for individuals and companies looking for venture capital. Fromkin references his involvement in "over forty companies." Fromkin omits any reference to his failed attempts in the same industry within Arizona. Further, he fails to disclose his ongoing personal bankruptcy filing, while stating that Capital Venture Partners can be a primary investor in the venture capital marketplace.

The Division recommends approval of this Order which would require restitution to nine shareholders in the amount of $225,000. In addition, the Division requests an administrative penalty of $45,000.

Originator: Kathryn McCormick

AG Assigned: Moira McCarthy

BEFORE THE ARIZONA CORPORATION COMMISSION

WILLIAM A. MUNDELL
Chairman
JIM IRVIN
Commissioner
MARC SPITZER
Commissioner

In the matter of MICHAEL DAVID FROMKIN 33 Center Court, Tennis Villas Dana Pointe, California 92629, Respondent.	DOCKET NO. S-03309A-02-0000 DECISION NO. ________________ **ORDER TO CEASE AND DESIST, ORDER OF RESTITUTION AND ORDER FOR ADMINISTRATIVE PENALTIES**

I.

INTRODUCTION

On February 21, 2002, the Securities Division ("Division") of the Arizona Corporation Commission ("Commission") filed a Notice of Opportunity for Hearing Regarding Proposed Order for Restitution, For Administrative Penalties, and for Other Affirmative Action ("Notice") against the above Respondent. The Notice specified that the Respondent would be afforded an opportunity for an administrative hearing on this matter upon filing a written request with Docket Control of the Commission within ten (10) days of receipt of the Notice. MICHAEL DAVID FROMKIN ("FROMKIN") was served a copy of the Notice on February 25, 2002, by certified mail to FROMKIN as permitted by A.A.C. R14-4-304. FROMKIN failed to request a hearing.

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II.

FINDINGS OF FACT

1. FROMKIN whose last known address is 33 Center Court, Tennis Villas, Dana Pointe, California 92629, was an officer and/or director in the following Arizona corporations: SystemXpertS, Inc., The Fromkin Group, Inc., Collegiatewear, Inc., Western States Telecom, Inc., Western States Capital Services, Inc., Western States Industries, Inc., Cactus Engineering, Inc., and Air Exhibits International. At all relevant times, FROMKIN was conducting business involving the offer and sale of securities within or from the state of Arizona.

2. During the period of at least February 9, 1995, through October 1998, FROMKIN began offering for sale and sold unregistered securities within or from the state of Arizona in the form of stock issued by companies with whom he associated or formed. The investments were offered through general solicitations verbally by FROMKIN. FROMKIN was not a registered securities salesman or dealer in the state of Arizona. The stock was not registered for sale in the state of Arizona, nor offered in reliance upon an available exemption from registration, nor pursuant to a notice filing. FROMKIN failed to advise offerees and shareholders that the stock was not registered for sale and that he was not a registered dealer or salesman.

3. FROMKIN engaged in a course of business that operated as a fraud, by offering and selling unregistered stock in a FROMKIN controlled company, without providing material disclosure to investors. When that company purportedly failed to produce profits, FROMKIN offered to exchange the stock for unregistered stock in a new FROMKIN controlled company. In offering and selling unregistered stock through his several companies, FROMKIN raised at least $225,000 from at least nine (9) investors.

4. In December 1994, two (2) owners of a company referred to as a "sole proprietorship" called Collegiatewear entered into a business agreement with FROMKIN, in an effort to get an influx of cash into the business. The company was in the business of manufacturing and selling clothing items to colleges and universities. FROMKIN assisted the

owners in incorporating the company in December 1994, in Arizona. FROMKIN received half ownership of the company in the form of 500 shares of restricted stock. FROMKIN was secretary and treasurer of Collegiatewear, while the original owners became president and vice president. FROMKIN then began offering Collegiatewear stock for sale.

5. In January 1995, FROMKIN and another individual incorporated SystemXpertS, Inc. in Arizona, for the purpose of selling computer systems from a retail store in Phoenix, Arizona. FROMKIN was secretary and treasurer of the company.

6. In February 1995, FROMKIN sold at least 250 shares of unregistered stock in SystemXpertS to at least one (1) investor for $25,000. FROMKIN told the investor that the investor held a 25% interest in the company. The investor was designated as Vice President of SystemXpertS.

7. Also in February 1995, FROMKIN sold at least 250 shares of unregistered stock in Collegiatewear to at least one (1) investor for $25,000. FROMKIN told the investor that the investor held a 25% interest in the company, and would receive one-half of FROMKIN's purported $1,000 weekly salary as a return on the investment.

8. Within a few months, both SystemXpertS and Collegiatewear went out of business. The original owners of Collegiatewear discovered that FROMKIN had not been paying bills, and had not invested any money into the company as promised. Further, he had sold his own restricted stock in violation of their agreement, and had emptied the corporate checking account, withdrawing between $3600 and $3800.

9. In May 1995, FROMKIN incorporated Western States Telecom, Inc. ("WST") in Arizona. FROMKIN was president, secretary, treasurer, and director of WST. The Fromkin Group, Inc. was the principal shareholder. WST initially intended to engage in long-distance telephone services.

10. FROMKIN told the investors who had lost their investments in SystemXpertS and Collegiatewear that he would make up their loss by giving them stock in WST. In May 1995,

one investor received 100 shares of WST. The other investor received an "Agreement" from The Fromkin Group to sell the investor 100 shares of WST at $.05 per share for a total of $5.00, but never received a stock certificate. WST had not registered its shares for sale within or from Arizona.

11. From around May 1995, through approximately December 1995, FROMKIN sold WST stock to at least seven (7) other investors for a total of $175,000. Some investors received a summary of "the WST project" and cash flow projections. FROMKIN failed to provide offerees with information on how the value of WST stock was determined. FROMKIN sold shares to different individuals for varying prices.

12. Some investors received financial projections for an 18-month period. FROMKIN told investors that he expected they would make millions. At least one (1) investor received a document stating that the expected return on the investment through February 1996, was 128.3%. There was no basis for such a claim. Investors were not given a prospectus, nor did they receive any balance sheets, income statements, or other material information about the business history of WST and its officers and directors.

13. FROMKIN solicited one (1) investor during a round of golf, saying that WST was selling a 2% share in the company for $25,000. FROMKIN said that the money would be used to expand the company into New Mexico and Utah during 1996. FROMKIN estimated that a $25,000 investment would return $53,500 in 1996, a profit of 114%. FROMKIN said he would return all invested money if he were ever asked to do so.

14. FROMKIN guaranteed the investment in WST stock in writing against any loss. FROMKIN wrote to some investors, promising that The Fromkin Group, Inc. pledged to repurchase shares at $250 per share during the term of ownership of the stock. In January 1995, FROMKIN had incorporated The Fromkin Group, Inc. in Arizona. The initial business was to purchase or otherwise acquire businesses. FROMKIN was president, CEO, director and

principal shareholder. Suzanne Fromkin, his wife, was secretary, director, and principal shareholder. There were no other incorporators, officers, or directors.

15. Investors received monthly "dividend" checks in WST for one (1) to four (4) months after investing. The checks were in amounts of $100 to $600. The payments then stopped. When investors asked to redeem their shares under the guarantee, FROMKIN failed to pay them back. FROMKIN told some investors that WST was defunct due to the actions of his partner and that FROMKIN was going to sue his partner for fraud. FROMKIN told other shareholders that WST's difficulties resulted from reselling problems, along with the fact that the company had been unable to open additional offices as anticipated. FROMKIN promised all the investors that they would not lose their money, because FROMKIN would put them in another investment.

16. In August 1996, FROMKIN incorporated Cactus Engineering, Inc. ("Cactus") in Arizona. FROMKIN was an incorporator and director of Cactus. Cactus was purportedly in the business of "electromechanical distribution and manufacturing." Around November 1996, FROMKIN told some WST investors that he would transfer their lost WST investment to shares in Cactus. Investors received no prospectus, but some investors saw a chart of financial projections on the company. FROMKIN told some investors that Cactus had projected sales of $1.8 million dollars for 1997. By June 1997, FROMKIN told investors that Cactus had ceased operations, there was nothing left, and that the money was gone. The stock in Cactus was unregistered.

17. In October 1997, FROMKIN incorporated Western States Capital Services, Inc. ("WSCS"), a purported financial services company, in Arizona. FROMKIN was the statutory agent, secretary, director, and principal officer of WSCS. FROMKIN offered at least four (4) investors in Cactus the opportunity to exchange shares for WSCS shares. WSCS stock was not registered for sale in Arizona.

18. In October 1998, FROMKIN incorporated Air Exhibits International ("AEI") in Arizona. FROMKIN was secretary and treasurer. AEI was purportedly a production company that owned an exhibit entitled "The Spirit of Flight World Tour." The exhibit would detail the history of flight and was to open in San Francisco, California. At least two (2) investors asked for their money back from their stock investments, and FROMKIN offered them stock in AEI in exchange. The AEI stock was not registered for sale in Arizona. At least one (1) investor was moved from WST shares to Cactus shares to AEI shares, without any consent on his part.

19. FROMKIN failed to provide offerees with a prospectuses or equivalent offering documents containing material information about SystemXpertS, Inc., Collegiatewear, WST, Cactus, or AEI. Information withheld included, but was not limited to, capitalization, a plan of distribution, federal tax aspects, redemptions and risks involved in these endeavors.

20. FROMKIN failed to disclose information on the background of the officers and key personnel, the directors or principal stockholders of the listed companies, including the business backgrounds and experience of the officers and directors in setting up and operating any of the listed entities. Additionally, FROMKIN failed to disclose the financial condition and business histories of himself and his companies.

21. By continually forming new corporations, and transferring investor shares to the new entity, without providing a prospectus or other material information, FROMKIN perpetrated the false image that FROMKIN was a successful venture capitalist. In fact, FROMKIN was engaged in a pattern of deception about his business dealings. Between 1994 and 1999, FROMKIN was involved in the incorporation of no less than 31 Arizona corporations and L.L.C.'s.

22. FROMKIN failed to disclose how investors' funds would actually be used, and in fact, gave conflicting uses to various investors. FROMKIN failed to tell offerees that some investors had received shares in exchange for stock in another FROMKIN company that was defunct, thereby diluting the value of all of the shares.

23. In January 2001, FROMKIN launched the Capital Venture Partners website. The site, located at www.capitalventurepartners.com advertises as an investment program for individuals and companies looking for venture capital. FROMKIN references his involvement in "over forty companies." FROMKIN omits any reference to his failed attempts in the same industry within Arizona. Further, he fails to disclose his ongoing personal bankruptcy filing, while stating that Capital Venture Partners can be a primary investor in the venture capital marketplace.

III.

CONCLUSIONS OF LAW

1. The Commission has jurisdiction over these matters pursuant to Article XV of the Arizona Constitution and the Securities Act of Arizona, ARS §44-1801 *et seq.* ("Securities Act").

2. From on or about at least February 9, 1995, through October 1998, FROMKIN offered and sold securities in the form of stock, within and/or from Arizona, within the meaning of A.R.S. §§ 44-1801(15), 44-1801(21), and 44-1801(26).

3. FROMKIN violated A.R.S. § 44-1841 by offering or selling securities that were neither registered nor exempt from registration.

4. FROMKIN violated A.R.S. § 44-1842 by offering or selling securities while neither registered as a dealer or salesman, nor exempt from registration.

5. FROMKIN violated A.R.S. § 44-1991 by (a) employing a device, scheme or artifice to defraud, (b) making untrue statements or misleading omissions of material facts, and (c) engaging in transactions, practices or courses of business which operate or would operate as a fraud or deceit.

6. FROMKIN'S conduct is grounds for a cease and desist order pursuant to A.R.S. § 44-2032.

7. FROMKIN'S conduct is grounds for an order of restitution pursuant to A.R.S. § 44-2032.

8. FROMKIN'S conduct is grounds for administrative penalties under A.R.S. § 44-2036.

IV.

ORDER

THEREFORE, on the basis of the Findings of Fact and Conclusions of Law, the Commission finds that the following relief is appropriate, in the public interest, and necessary for the protection of investors:

IT IS ORDERED, pursuant to A.R.S. § 44-2032, that FROMKIN, and any of FROMKIN'S agents, employees, successors and assigns, permanently cease and desist from violating the Securities Act.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2032, that FROMKIN shall pay restitution to investors shown on the records of the Commission in the amount of $225,000, plus interest at the rate of 10% per annum from the date of each investment until paid in full. Payment shall be made by cashier's check or money order payable to the "State of Arizona" to the Arizona Attorney General's Trust Account.

IT IS FURTHER ORDERED, pursuant to A.R.S. § 44-2036, that FROMKIN shall pay an

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administrative penalty in the amount of $45,000. Payment shall be made in full by cashier's check or money order on the date of this Order, payable to the "State of Arizona."

BY ORDER OF THE ARIZONA CORPORATION COMMISSION

CHAIRMAN	COMMISSIONER	COMMISSIONER

IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive Secretary of the Arizona Corporation Commission, have hereunto set my hand and caused the official seal of the Commission to be affixed at the Capitol, in the City of Phoenix, this _______ day of _________________, 2002.

BRIAN C. McNEIL
Executive Secretary

DISSENT

This document is available in alternative formats by contacting Shelly M. Hood, Executive Assistant to the Executive Secretary, voice phone number 602-542-3931, E-mail shood@cc.state.az.us.

(KEM)

N:Enforce/Cases/Fromkin/Pleadings/Default